

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA)
)
)
 Plaintiff,)
)
)
 v.) Case No. 3:18-cr-138 JD-MG
)
)
 SVEN ERIC MARSHALL,)
)
)
 Defendant)
)

**DEFENDANT MARSHALL'S SUPPLEMENTAL BRIEF
RE EMERGENCY MOTION FOR RELEASE**

Comes now the defendant, Sven Eric Marshall, by and through his counsel Donald J. Schmid, to supplement his brief/memorandum and emergency motion for release (DE 93).

The pandemic and worldwide health crisis continues to get more serious each day. As of March 17, 2020, COVID 19 (coronavirus) infections surpassed 195,000 globally. More than 7,800 persons have died worldwide.

https://www.wsj.com/livecoverage/coronavirus?mod=theme_coronavirus-ribbon
(updated regularly)

Coronavirus infections have now been reported in all 50 states in the United States. <https://www.cnn.com/2020/03/17/health/us-coronavirus-updates->

tuesday/index.html The death toll in the United States is climbing rapidly. Id. New York Mayor Bill de Blasio said the city's 8.4 million residents should prepare for a shelter in place order. This "very, very difficult decision" should be made in the next 48 hours. Id. The number of confirmed COVID-19 cases surpassed 5,000 in the United States on Tuesday. <https://www.msn.com/en-us/news/us/us-coronavirus-cases-surpass-5000-up-fivefold-from-a-week-ago/ar-BB11jFX6?ocid=spartandhp>

Locally, all seven school districts in Elkhart County on Saturday March 14, 2020 announced they would be closed in the weeks ahead, falling in line with a flurry of other cancellations and closings aimed at preventing the spread of coronavirus. Elkhart, Concord, Goshen, Baugo, Middlebury, WaNee and Fairfield school corporations all announced they were canceling classes for up to four weeks, including a week of spring break, and some starting as early as Monday.

https://www.elkharttruth.com/news/schools-in-elkhart-county-to-close/article_23c07cad-bb00-50b3-a55c-57a37aa4e2b4.html Schools, businesses, and other venues are closing all across the United States.

With respects to jails, officials are releasing persons who are especially vulnerable and trying to reduce jail populations. The South Bend Tribune had this report.

Some counties nationally are trying to reduce their jail populations as the virus spreads by freeing as many nonviolent offenders as possible. County Sheriff Bill Redman said the jail held 600 inmates as of Monday. ...

“We had discussions with Prosecutor Cotter last week and all the local police chiefs and administrators about not arresting on all offenses, maybe long-forming some of those arrests,” Redman said, referring to a common law enforcement term for citing someone for a violation and sending it to the prosecutor for potential charging without immediately jailing a suspect. “If it’s a violent crime, obviously we have no choice. But we have asked officers to use a little more discretion on making arrests.”

The sheriff said Troy Warner, his department’s attorney, also has led discussions with local judges about potentially starting to release some nonviolent offenders.

https://www.southbendtribune.com/coronavirus/city-county-federal-leaders-meet-in-south-bend-to-share/article_fbf07c58-67d1-11ea-999c-1f43fcb8dc79.html

“Cook County Jail has released several detainees deemed “highly vulnerable” to coronavirus as a global pandemic broadens its effect on society, the Cook County sheriff’s office has announced.” <https://www.nbcchicago.com/news/local/cook-county-jail-releases-detainees-highly-vulnerable-to-coronavirus/2238813/>

The Los Angeles County Sheriff’s Department is releasing inmates from its jails and cutting down on how many people it books into custody to protect those housed in close quarters from the growing coronavirus pandemic. Sheriff Alex Villanueva said deputies and police officers across the county have been directed to cite and release people whenever possible, instead of arresting them, and to seek medical clearance before booking anyone who shows symptoms. “Countywide, he said, arrests have dropped from a daily average of 300 to 60, while the jail population was reduced by more than 600 inmates.”

<https://www.latimes.com/california/story/2020-03-16/la-jail-population-arrests-down-amid-coronavirus>

“The Cuyahoga County Court in Ohio released hundreds of inmates from the Cuyahoga County Jail Saturday morning March 14, 2020 due to coronavirus concern.” <https://fox59.com/news/ohio-jail-releases-hundreds-of-inmates-due-to-concern-of-coronavirus-spread/> See also <https://www.cnn.com/2020/03/16/us/inmates-released-jail-coronavirus-trnd/index.html>

Nationally, the United States suspended even legal visits at BOP facilities. “[L]egal visits will be suspended for 30 day” at federal BOP facilities the BOP website reported today. https://www.bop.gov/resources/news/20200313_covid-19.jsp

The U.S. Marshals today March 17, 2020 announced that they would not be transporting detainees from the Elkhart County or St. Joseph County jails to U.S Courthouses or otherwise. (Mar. 17, 2020 email from Janet Mills, USAO, ND Ind., to your undersigned.)

As stated in the defendant’s original emergency motion, he is especially vulnerable to the coronavirus and is a special risk if he contracts COVID19. The health crisis and pandemic continue to get worse in the United States.

For all of the reasons stated in his motion (DE 93) and above, the defendant asks for his release on bond and other release conditions to live with his mother and with GPS location monitoring.

Dated: March 17, 2020

Respectfully submitted,

/s/ Donald J. Schmid

Donald J. Schmid
Attorney for Defendant Marshall

Law Offices of Donald J. Schmid
1251 N. Eddy Street, Suite 200
South Bend, Indiana 46617
574-993-2280
schmid@donaldschmidlaw.com